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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,517	07/08/1999	RUSSELL W. MCDONALD	1106-1	6725
23429	7590	08/28/2006	EXAMINER COLBERT, ELLA	
GREGORY SMITH & ASSOCIATES 3900 NEWPARK MALL ROAD, 3RD FLOOR NEWARK, CA 94560			ART UNIT 3693	PAPER NUMBER

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/349,517

Applicant(s)

MCDONALD ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 12-20, 22-25, 27-29, 31-43, 45, 46, 48-50, 52-56, 58-60 and 62-107 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 12-20, 22-25, 27-29, 31-43, 45, 46, 48-50, 52-56, 58-60 and 62-107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-3, 12-20, 22-25, 27-29, 31-43, 45, 46, 48-50, 52-56, 58-60, and 62-107 are pending. Claims 65-107 have been added in this communication filed 06/05/06 entered as Response After Non-Final Action (Miscellaneous Communication to Applicants' of 5/23/06). The amended Specification submitted has been considered and the Objection to the Specification has been overcome by the amendment and is hereby withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were

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made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-2, 32, 34, 66, 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,995,947) Fraser et al, hereafter Fraser and (US 5,940,812) Tengel et al, hereafter Tengel and Teixeira, Diogo, hereafter Teixeira.

As per claims 1 and 32, Fraser teaches, A data processing system for managing the origination of a mortgage loan by a loan originator in coordination with a loan broker for a loan customer, comprising: means for collecting data regarding the loan customer not previously possessed by the loan originator (col. 2, lines 12-20 and col. 9, lines 35-45); wherein the loan originator is not the loan broker and the loan originator is not the loan customer (col. 10, lines 16-21, col. 6, lines 20-25, and col. 7, lines 21-23 (broker and lender comparison). Fraser failed to teach, wherein the loan originator provides services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker, making a loan origination fee paid to the loan originator at a time of closing on the mortgage loan legally compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA). Teixeira teaches, wherein the loan originator provides services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker, making a loan origination fee paid to the loan originator at a time of closing on the mortgage loan legally compliant

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with the guidelines of the Real Estate Settlement Procedures Act ("RESPA") (page 1, lines 13-23 and lines 32-43 and page 2, lines 18-43). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the loan originator provide services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker, making a loan origination fee paid to the loan originator at a time of closing on the mortgage loan legally compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA") and to modify in Fraser because such a modification would allow Fraser to have loan origination, secondary marketing, and servicing performed on different software and to merge the financial information from many different sectors. Teixeira did not expressly disclose the guidelines of the Real Estate Settlement procedures Act ("RESPA"). However, "RESPA" is well known in the mortgage and real estate environment. Fraser fails to teach, means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan customer; and means for transferring the loan application to the loan broker. Tengel teaches, means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan customer (col. 8, lines 37-67 and col. 9, lines 1-3); and means for transferring the loan application to the loan broker (col. 9, lines 23-65 and col. 10, lines 1-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for generating disclosure documents regarding the mortgage loan and the already possessed data and the not previously possessed data regarding the loan

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customer; and means for transferring the loan application to the loan broker and to modify in Fraser because such a modification would allow Fraser to have a system that allows Fraser to download to a consumer terminal a web-page that includes a borrower loan application form and to check the validity of the data before it is sent to the server.

With respect to claim 32, Fraser and Tengel further teach a computerized method of managing the origination of a mortgage loan by a loan originator in coordination with a loan broker for a loan customer. Fraser teaches, a computer in col. 3, lines 12-16 and Tengel teaches, a computer in col. 4, lines 60-64. Therefore it would have been obvious to one having ordinary skill in the art to have a computer to perform the method steps of claims 1 and 32 because the usage of a computer is a means of modernizing what was once a manual method and process.

As per claims 2 and 66, Fraser teaches, The data processing system recited in claim 1, further comprising: means for transferring data from a remote computer system to the data processing system (col. 6, lines 63-67 and col. 10, lines 35-61); and means for incorporating the transferred data into the loan application (col. 9, lines 37-52).

With respect to claims 34 and 86, this dependent claim is rejected for the similar rationale as given above for claims 2 and 66.

6. Claims 3,12-20, 22- 24, 35-43, 45-46, 48, 49, 55, 67-78, 87-93, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser and Tengel in view of (US 6,192,347) Graff.

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As per claims 3, 40, 67, and 92, Fraser teaches, The data processing system recited in claim 1, further comprising: means for ordering at least one required legal document for the mortgage loan (col. 3, lines 63-67 and col. 4, lines 16-21).

As per claims 12, 41, 68, and 93, Fraser and Tengel fail to teach, The data processing system recited in Claim 3, wherein the required legal document is a member of the collection comprising: a preliminary title report, a Covenants, Conditions, and Restrictions (CC and R), and a homeowners association certificate. Graff teaches, wherein the required legal document is a member of the collection comprising: a preliminary title report, a Covenants, Conditions, and Restrictions (CC and R), and a homeowners association certificate (col. 11, lines 17-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the required legal document as a member of the collection comprise a preliminary title report, a Covenants, Conditions, and Restrictions (CC and R), and a homeowners association certificate and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to have a title to a term of interest in a property and a separate title to a remainder interest in the property.

As per claims 13, 35, 69, and 87, Fraser teaches, The data processing system recited in Claim 2, means for transferring data from the remote computer system is further comprised of means for transferring data from a credit reporting computer system regarding the loan customer to the data processing system (col. 5, lines 23-30).

As per claims 14, 36, 70, and 88 Fraser and Tengel fail to teach, The data processing system recited in Claim 2, means for transferring data from the remote

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computer system is further comprised of: means for requesting a report from an inspection agency regarding the loan application; and means for transferring the data from the inspection agency regarding the requested report to the data processing system. Graff teaches, The data processing system recited in Claim 2, means for transferring data from the remote computer system is further comprised of: means for requesting a report from an inspection agency regarding the loan application (col. 16, lines 35-55); and means for transferring the data from the inspection agency regarding the requested report to the data processing system (col. 16, lines 55-67 and col. 17, lines 1-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have means for transferring data from the remote computer system is further comprised of: means for requesting a report from an inspection agency regarding the loan application; and means for transferring the data from the inspection agency regarding the requested report to the data processing system and to modify in Fraser because such a modification would allow Fraser to have a system to have a disclosure document for securities law purposes for the securitized remainder real estate component.

As per claims 15, 37, 71, and 89, Fraser and Tengel fail to teach, The data processing system recited in Claim 14, wherein the inspection agency is a flood certification company, and the requested report determines whether the property is in a special flood hazard zone. Graff teaches, wherein the inspection agency is a flood certification company, and the requested report determines whether the property is in a special flood hazard zone (col. 17, lines 49-67 and col. 173, lines 1-25). It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to have the inspection agency to be a flood certification company, and the requested report determines whether the property is in a special flood hazard zone and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to know if there are any hazards such as flooding that would affect the insurance rate.

As per claims 16, 38, 72, and 90, Fraser teaches, The data processing system recited in Claim 1, further comprising: means for configuring the data processing system to act as the loan originator computer (col. 6, lines 5-13 and lines 20-25).

As per claims 17, 39, 73, and 91, Fraser teaches, The data processing system recited in Claim 16, wherein the means for configuring the data processing system is further comprised of at least one member of the collection comprising: means for determining whether the loan originator needs a license (col. 6, lines 20-33); and means for aiding a licensed loan originator in where to hang the license (col. 6, lines 42-51).

As per claims 18, 42, 74, and 94, Fraser fails to teach, The data processing system recited in Claim 1, wherein the means for generating the loan application is further comprised of: means for translating from a loan originator's database to import information into the loan application. Tengel teaches, wherein the means for generating the loan application is further comprised of: means for translating from a loan originator's database to import information into the loan application (col. 8, lines 37-49). Fraser teaches, wherein the loan originator is not a loan officer (col. 7, lines 26-67 and col. 8, lines 1-5); and wherein the loan originator's database is not a loan officer's database (col. 2, lines 15-46). It would have been obvious to one having ordinary skill

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in the art at the time the invention was made to have a means for translating from a loan originator's database to import information into the loan application and to modify in Fraser because such a modification would allow Fraser to download to a consumer terminal a we-page that includes a borrower loan application form.

As per claims 19, 43, 75, and 95, Fraser fails to teach, The data processing system recited in Claim 18, wherein the loan originator's database includes a personal finance database of the loan customer. Tengal teaches, wherein the loan originator's database includes a personal finance database of the loan customer (col. 5, lines 12-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the loan originator's database include a personal finance database of the loan customer and to modify in Fraser because such a modification would allow Fraser to have a specification of borrower attributes stored into a database.

As per claims 20, 55, and 103, Fraser fails to teach, The data processing system recited in Claim 19, wherein the loan originator is the loan customer. Tengal teaches, wherein the loan originator is the loan customer (col. 7, lines 1-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the loan originator as the loan customer and to modify in Fraser because such a modification would allow Fraser to place the loan acceptance criteria in the database.

As per claims 22, 45, 76, and 96, Fraser teaches, The data processing system recited in Claim 1, wherein the means for collecting data not already possessed is further comprised of means for data entry making assumptions that require a minimum

data fields be entered by the loan originator (col. 3, lines 46-67 and col. 5, lines 34-44).

Fields are inherent to a relational database as is well known in the database art.

As per claims 23, 46, 77, and 97, Fraser teaches, The data processing system recited in Claim 1, wherein the means for generating the loan application is further comprised of means for determining which forms are appropriate to the loan application. (col. 1, lines 22-46).

As per claims 24, 48, 78, and 98, Fraser and Tengel fail to teach, The data processing system recited in Claim 1, wherein the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator. Graff teaches, wherein the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator (col. 16, lines 35-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the disclosure documents include a notice disclosure statement further including an estimate of the loan origination fee to be paid to the loan originator and to modify in Fraser and Tengel because such a modification would allow Fraser and Tengel to have a disclosure document for securities law purposes.

7. Claims 25, 27-29, 31, 33, 49, 50, 52-54, 56-60, 62-64, 79 –83, 85, 99-102, and 104-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser, Tengel, and Graff in view of Dictionary of Business Terms.

As per claims 25, 50, 60, 79, 83, and 100 Fraser fails to teach, The data processing system recited in Claim 1, further comprising: means for analyzing the financial market to determine when there is financial advantage to refinancing a current loan. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a means for analyzing the financial market to determine when there is financial advantage to refinancing a current loan and to modify in Fraser because such a modification would allow Fraser to know the percentage rate and whether it is worth refinancing a current loan to lower the payments.

As per claims 27, 52, and 62, Fraser failed to teach, The data processing system recited in Claim 1, wherein the loan originator is at least one member of the collection comprising: a real estate broker, a real estate agent, a home builder, an FSBO, and a relocation company. The Dictionary of Business Terms teaches, a real estate broker (page 566), a real estate agent (page 566), a home builder, an FSBO (page 252), and a relocation company. These terms are all well known in the business art and it would have been obvious for a skilled artisan to modify in Fraser because being a member of this collection would entitle Fraser to arrange for the sale or purchase of property for a buyer or seller in return for a commission and to have a state license.

As per claims 28, 53, 63, 80, and 101, Fraser did not teach, The data processing system recited in Claim 1, wherein the loan originator is at least one member of the financial planning professional collection comprising: a financial planner, a CPA, a dealer, a broker and a dealer, a stock broker, an insurance agent, an insurance broker and agent and an attorney. The Dictionary of Business Terms teaches, the financial

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planning professional collection comprising: a financial planner (page 257), a CPA (page 98), a dealer (page 68 and page 164), a broker and dealer (page 51) a stock broker (page 576), an insurance agent and broker (page 341 and 342), and an attorney. These are well known in the business art and it would have been obvious to modify in Fraser because such a modification would allow Fraser to be an employee of a stock exchange member broker/dealer who acts as an account executive for clients.

As per claims 29, 54, 64, 81, 102, and 107, Fraser fails to teach, The data processing system recited in Claim 1, wherein the loan originator is a member of the financial institution collection comprising a bank, a savings and loan, a thrift, and a credit union. The Dictionary of Business Terms teaches, financial institution collection comprising a bank (page 50), a savings and loan (page 609), a thrift (page 694), and a credit union (page 154). These are well known in the business art and it would have been obvious to modify in Fraser because such a modification would allow Fraser to be able to issue loans and credit.

As per claims 31, 58, 82, and 105, Fraser failed to teach, The data processing system recited in Claim 1, further comprising a computer accessing memory containing at least one program implementing the means recited in Claim 1. A memory is inherent to any computer system even though it is not specifically stated in Fraser.

As per claim 33 and 85, Fraser teaches, The method of claim 32, further comprising the step of the loan originator operating a computer as a loan originator computer (col. 3, lines 12-16 and fig. 1 (130 & 120)).

As per claims 49, 56, 59, 99, 104, and 106, Fraser teaches, The loan origination fee as a product of the process recited in Claim 48 (col. 1, lines 10-46).

Response to Arguments

8. Applicants' arguments filed 12/27/05 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: The Applicants' disagree, compliance with RESPA is not mentioned nor is it implied and without knowledge of the Applicants' patent application, the Examiner has found no public document, as of the time of the application's filing, enabling one of ordinary skill in the art knowledge of all of the elements, much less their combination has been considered but is not persuasive.

Response: The Examiner stated the following: "It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the loan originator provide services necessary for the origination of the mortgage loan and not duplicative of services provided by the loan broker, making a loan origination fee paid to the loan originator at a time of closing on the mortgage loan legally compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA") and to modify in Fraser because such a modification would allow Fraser to have loan origination, secondary marketing, and servicing performed on different software and to merge the financial information from many different sectors. Teixeira did not expressly disclose the guidelines of the Real Estate Settlement procedures Act ("RESPA"). However, "RESPA" is well known in the mortgage and real estate environment." The claim limitation "wherein the loan originator provides services necessary for the origination of

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the mortgage loan and not duplicative of services provided by the loan broker, making a loan origination fee paid to the loan originator at a time of closing ... compliant with the guidelines of the Real Estate Settlement Procedures Act ("RESPA")" is considered an intended result.

Conclusion: Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner carefully drew up a correspondence of each of Applicants' claimed limitations, one or more referenced passages in Fraser et al, Tengel et al, Teixeira, and Graff, what is well known in the art and what is obvious to one having ordinary skill in the art at the time the invention was made.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<

Applicants' claims read on the generation of a loan application for a new customer and generating new documents then transferring the loan application to a broker which is well known when a customer applies for a mortgage. For example, the Examiner has past experience of purchasing a home and applying for a mortgage because the originator was not my broker. My originator collected the data for the loan

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application from me, the documents were generated and then the loan application was sent to my broker to shop for the best interest rate for my loan. What the loan broker provides that the originator does not provide is shopping for a good interest rate for the customer. The loan origination fee was paid at closing on the mortgage loan in compliance with the Real Estate Procedures Act. Infact, I was requested to read a copy of the Real Estate Procedures Act prior to the finality of the closing. Therefore, what steps are novel about the invention that is not being done when a person applies for a mortgage?

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

Oppenheimer (US 5,644,726) disclosed financing real property by mortgagors.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

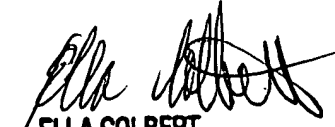
Inquiries

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 15, 2006


ELLA COLBERT
PRIMARY EXAMINER